DECLARATION OF STEVE GANEM REGARDING GOOGLE ANALYTICS

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, *et al.*, on behalf of themselves and all others similarly situated, Plaintiffs, vs. GOOGLE LLC, Defendant.	Case No. 4:20-cv-03664-YGR-SVK **DECLARATION OF STEVE GANEM REGARDING GOOGLE ANALYTICS** Judge: Hon. Yvonne Gonzalez Rogers Date: September 20, 2022 Time: 2:00 p.m. Location: Courtroom 1 – 4th Floor

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I, Steve Ganem, declare as follows:

1.   I am a Group Product Manager at Google. In my role as Group Product Manager, I am familiar with the Google Analytics product and practices regarding handling of data received by Google Analytics when a user visits a website that uses this product. In this declaration, I provide a summary of Google's Analytics product and how it is used by Google's customers. I also describe the data that Google Analytics may receive when a user visits a website that uses Google Analytics. I next describe multiple factors that affect whether Google Analytics actually receives, stores, and/or uses that data. Finally, I describe the factors that affect Google's revenue from the Analytics product. Except where otherwise indicated, I make this declaration based on my own personal knowledge and could competently testify thereto.

2.   Google Analytics is a measurement product offered by Google to help app and website owners better understand how visitors interact with their properties. To use Google Analytics on a website, customers must create an account, accept the relevant Google Analytics terms, and add a Google Analytics script—a block of JavaScript code—to the HTML source code for one or more pages of the website. When a user visits a page to which the Google Analytics customer has added a Google Analytics script, the script will be included in the HTML source code delivered to the user's browser in response to the browser's request. When the user's browser encounters the Google Analytics script, it will fetch JavaScript code that, when executed by the browser, performs certain tracking functions and may send related data to Google Analytics.

3.   I am informed that Plaintiffs are asking the Court to certify two classes:

Class 1 - "All Chrome browser users with a Google account who accessed a non-Google website containing Google tracking or advertising code using such browser and who were (a) in 'Incognito mode' on that browser and (b) were not logged into their Google account on that browser, but whose communications, including identifying information and online browsing history, Google nevertheless intercepted, received, or collected from June 1, 2016 through the present (the 'Class Period')."

Class 2 - "All Safari, Edge, and Internet Explorer browser users with a Google account who accessed a non-Google website containing Google tracking or advertising code using such

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1 browser and who were (a) in 'Incognito mode' on that browser and (b) were not logged into

2 their Google account on that browser, but whose communications, including identifying

3 information and online browsing history, Google nevertheless intercepted, received, or

4 collected from June 1, 2016 through the present."

5 Dkt. 609 at 1.

6   4.   I am informed that Plaintiffs allege Google improperly collected the following

7 categories of information during the Class Period when users with a Google Account visited non-

8 Google websites that use certain Google web-services—such as Google Analytics and Google

9 advertising services (the "Services")—when those users were not logged into their Google Account

10 and were browsing in Incognito mode or the private browsing modes offered by Safari, Edge, or

11 Internet Explorer: (1) "[t]he 'GET request'"; (2) "[t]he IP address of the user's connection to the

12 internet"; (3) "[i]nformation identifying the browser software that the user is using, including any

13 'fingerprint' data"; (4) "[a]ny 'User-ID' issued by the website to the user, if available"; (5)

14 "[g]eolocation of the user, if available"; and (6) "[i]nformation contained in 'Google cookies'" (the

15 "Data"). Third Amended Complaint ("TAC") ¶ 63. I am further informed that Plaintiffs refer to the

16 X-Client-Data header as a field they contend to be used to identify Incognito users. TAC, ¶ 96.

17   **A.**   **<u>Overview of the Data Google Analytics Receives</u>**

18   5.   When used on a website, Google Analytic does not receive certain of the categories

19 of data described in Paragraph 4. For example, Google Analytics does not receive the X-Client-

20 Data header, and does not receive geolocation data aside from IP address (from which a geolocation

21 may be approximated). Before Google Analytics can receive *any* of the categories of data at issue

22 in Paragraph 4 related to a user's visit to a specific website, that website's owner must have installed

23 Google Analytics scripts in the website's HTML code. These scripts may be viewed by any Chrome

24 user by visiting the webpage using Google Analytics and right-clicking on the webpage, selecting

25 "Inspect," and then viewing the "Sources." Other browsers have similar functionality.

26   6.   The Google Analytics JavaScript code used by Google Analytics customers is not

27 designed to know whether a user is browsing using a private browsing mode ("PBM") such as

28 Chrome's Incognito Mode, or to operate differently in that circumstance.

1   7.   When a user visits a website that uses Google Analytics, whether in a PBM or not,

2 the following categories of data may potentially be sent to Google Analytics:

3   ● The HTTP request from the user's browser, including the hostname, browser type, referrer,

4   and language, and depending on the browser used, Java support, Flash support, and screen

5   resolution;

6   ● IP address;

7   ● Metrics concerning on-site activities

8   ● Data associated with first party cookies; and

9   ● User-ID (if this feature is used by the customer (i.e. the website) and the browser user logs

10   into their account on that website).

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8.   The categories of data potentially received by Google Analytics are explained in Google's public disclosures[1]:

Data Collected by Google Analytics

First-party Cookies

Google Analytics collects first-party cookies, data related to the device/browser, IP address and on-site/app activities to measure and report statistics about user interactions on the websites and/or apps that use Google Analytics. Customers may customize cookies and the data collected with features like cookie settings, User-ID, Data Import, and Measurement Protocol. Learn more

Google Analytics customers who have for instance, enabled the analytics.js or gtag.js collection method can control whether or not they use cookies to store a pseudonymous or random client identifier. If the customer decides to set a cookie, the information stored in the local first-party cookie is reduced to a random identifier (e.g., 12345.67890).

For customers who use the Google Analytics for Apps SDK, we collect an App Instance Identifier, which is a number that is randomly generated when the user installs an app for the first time.

Advertising identifiers

Where customers use Google Analytics Advertising Features, Google advertising cookies are collected and used to enable features like Remarketing on the Google Display Network. These features are subject to the users' Ads Settings, the Policy requirements for Google Analytics Advertising Features and Google's EU User Consent policy, which requires customers to obtain consent for cookies where legally required—including consent for personalized ads. For more information about how Google uses advertising cookies, visit the Google Advertising Privacy FAQ. It is possible to implement Google Analytics without affecting normal data collection where Advertising features are disabled until consent is obtained (see Privacy Controls in Google Analytics), as well as prevent certain data from being used for advertising personalization purposes (See Advertising Personalization below).

IP Address

Google Analytics uses IP addresses to derive the geolocation of a visitor, and to protect the service and provide security to our customers. Customers may apply IP masking so that Google Analytics uses only a portion of an IP address collected, rather than the entire address. In addition, customers can override IPs at will using our IP Override feature.

PII Prohibition

Our contracts prohibit customers from sending Personally Identifiable Information to Google Analytics. Customers should follow these Best Practices to ensure PII is not sent to Google Analytics.

9.   As explained in the "First-party Cookies" section of these public disclosures, "Google Analytics collects first-party cookies" and other information "to measure and report statistics about user interactions on the websites and/or apps that use Google Analytics." The measurement and reporting functionality provided by Google Analytics primarily relies on first-

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[1] *See* GOOG-CABR-00007815 - 7818 (https://support.google.com/analytics/answer/6004245#zippy=%2Cdata-collected-by-google-analytics).

1   party cookies that are associated with the customer's website. This is because Google receives and

2   processes this measurement information on behalf of the customer; Google does not share a Google

3   Analytics customer's data with third parties except in limited circumstances as described in the

4   Google Analytics Terms of Service.[2]

5   10.   A minority of Google Analytics customers use the "User-ID" feature, which lets the

6   customer "associate a persistent ID for a single user with that user's engagement data from one or

7   more sessions initiated from one or more devices."[3] Google Analytics will only receive a User-ID

8   value if the Google Analytics customer has enabled that feature, and Google's public disclosures

9   further describe that User-ID values are not assigned by Google Analytics, but instead are typically

10   generated by the customer based on a visitor having signed into their website[4]:

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> **User-ID values are not assigned by Analytics**
>
> Analytics cannot generate, assign, or manage the unique IDs that are assigned as User IDs. In a typical scenario, IDs can be generated through your authentication system, passed to an account when a user signs-in, and then sent to Analytics. (You can, however, set up User-ID in different ways, and are not limited to associating it with account sign-ins.)

15   11.   Because the User-ID is assigned by the website, it is not shared across any other sites

16   not owned by the same owner and therefore cannot be used for cross-site tracking: "[User-ID] data

17   collected in one property cannot be shared or mixed with data in another property."[5]

18   12.   Google Analytics' policies relating to the User-ID feature also state that in using this

19   feature, a Google Analytics customer "must not upload any data that allows Google to personally

20   identify an individual (such as certain names, Social Security Numbers, email addresses, or any

21   similar data), or data that permanently identifies a particular device (such as a unique device

22   identifier if such an identifier cannot be reset)."[6]

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[2] *See, e.g.,* GOOG-CABR-00894408 - 4415
(https://marketingplatform.google.com/about/analytics/terms/us/).
[3] *See* GOOG-CABR-00006041 (https://support.google.com/analytics/answer/3123662).
[4] *See* GOOG-CABR-00008365 (https://support.google.com/analytics/answer/3123668).
[5] *See* GOOG-CABR-00008365 (https://support.google.com/analytics/answer/3123668).
[6] *See* https://developers.google.com/analytics/devguides/collection/protocol/policy;
https://developers.google.com/analytics/devguides/collection/protocol/ga4/policy.

1   13.   As explained in the "IP Address" section of Google's public disclosures of "Data

2   Collected by Google Analytics" (referenced above), "Google Analytics uses IP addresses to derive

3   the geolocation of a visitor." However, as described below, Google Analytics customers can enable

4   a feature to mask (anonymize) the visitor's IP address as soon as technically feasible. Prior to

5   April, 2022, this IP address anonymization feature was enabled by default and immutable in the

6   current generation Google Analytics 4 ("GA4") product. Currently, Google Analytics discards

7   all IP addresses in the GA4 product upon collection, after determining an approximate

8   geographic location.

9   14.   As explained in the "Advertising identifiers" section of Google's public disclosures

10 of "Data Collected by Google Analytics" (referenced above), "[w]here customers use Google

11 Analytics Advertising Features, Google advertising cookies are collected and used to enable features

12 like Remarketing on the Google Display Network." Most Analytics customers do not enable this

13 feature. These Advertising Features are subject to the user's Ads settings (e.g., consent to the New

14 Ads Control and Ad personalization) and policy requirements relating to Google Analytics

15 Advertising Features.   The policy requirements applicable to Analytics customers in relation to

16 Google Analytics Advertising Features are also described in Google's public disclosures, including

17 requirements relating to notifications to visitors[7]:

If you've enabled any Google Analytics Advertising features, you are required to notify your visitors by disclosing the following information in your privacy policy:

- The Google Analytics Advertising Features you've implemented.

- How you and third-party vendors use first-party cookies (such as the Google Analytics cookie) or other first-party identifiers, and third-party cookies (such as Google advertising cookies) or other third-party identifiers together.

- How visitors can opt-out of the Google Analytics Advertising Features you use, including through Ads Settings, Ad Settings for mobile apps, or any other available means (for example, the NAI's consumer opt-out).

We also encourage you to point users to Google Analytics' currently available opt-outs ☑ for the web.

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[7] *See* GOOG-CABR-00004459 - 4460 (https://support.google.com/analytics/answer/2700409).

15.   Chrome includes the X-Client-Data header only in messages it sends to certain domains, not including domains associated with Google Analytics. Therefore, Google Analytics does not receive the X-Client-Data header.

B.   A Multitude of Factors Affect Whether Google Analytics Receives, Stores, and/or Uses the Data

16.   Whether Google *in fact* receives the data described in paragraph 7 above depends on numerous factors, including (1) features and settings enabled by the particular Google Analytics customer, and (2) features and settings enabled by the user.

1.   Customer-Enabled Features That Affect Whether Google Receives The Data

17.   Google receives and processes the information it receives through Google Analytics on behalf of Google Analytics customers.[8] Customers can view reports about visitors' interactions with their properties by logging into Google Analytics.

18.   Google Analytics customers can use a variety of privacy controls that limit, in whole or in part, the data sent to Google Analytics when users visit their website. Google explains the controls available to Google Analytics customers in documents that are publicly available online.[9]

19.   For example, a Google Analytics customer has the option to disable Google Analytics functionality on a webpage, without removing the Google Analytics tag itself.[10] A customer might use this control to implement its own privacy policy. If the customer gives its users the option to opt-out of Google Analytics measurement, then the customer may disable the Google Analytics functionality for that user without removing the Google Analytics tag itself. To disable Google Analytics measurement, the customer (website owner) sets a window property to "true" for each page on which Google Analytics measurement should be disabled. Before sending any measurement data to Google Analytics servers, the Google Analytics Javascript code executing on

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[8] *See, e.g.,* GOOG-CABR-00894408 - 4415 (https://marketingplatform.google.com/about/analytics/terms/us/).

[9] *See, e.g.,* GOOG-CABR-00004757 - 4759 (https://support.google.com/analytics/answer/9019185#zippy=%2Cin-this-article).

[10] *See, e.g.,* GOOG-CABR-05558144 (https://developers.google.com/analytics/devguides/collection/analyticsjs/user-opt-out).

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1 the user's browser will check the value of that property. If it is set to true, the Google Analytics

2 Javascript code will not send the measurement data to the Google Analytics servers.

3   20. As another example and as described above, a minority of Google Analytics

4 customers have enabled the User-ID feature. Because each customer that enables User-ID will

5 assign its own ID to its users, the same user is likely to have a different User-ID assigned by each

6 website that has enabled the feature. If a customer has not enabled the User-ID feature for a website

7 (or the user does not log into the website), Google Analytics will not receive a User-ID when a user

8 visits the website:[11]

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Data collection begins after implementation

User-ID can only collect data after you've implemented the feature. Implementation includes the generating unique IDs, assigning IDs to returning users, and sending IDs and all related engagement data to Analytics. Any data in your Analytics account collected and recorded prior to implementation cannot be reprocessed and associated with a User ID.

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[11] *See* GOOG-CABR-00008365 (https://support.google.com/analytics/answer/3123668).

21.   As another example, a Google Analytics customer can request IP address anonymization in the Universal Analytics product. This feature is designed to help site owners comply with their own privacy policies or recommendations from local data protection authorities, which may prevent the transfer or storage of full IP address information. When a customer requests IP anonymization, the IP address is anonymized as soon as technically feasible, shortly after it is sent to Google. This IP anonymization feature sets the last octet of IPv4 user IP addresses and the last 80 bits of IPv6 addresses to zeros in memory. The full IP address is never written to disk in this case. This IP address anonymization feature is described in Google's public disclosures [12]:

> Since 25 May 2010, Analytics has provided the _anonymizeIp feature in the ga.js JavaScript library (and more recently ga('set', 'anonymizeIp', true) ☑ in the analytics.js library) to allow website owners to request that all of their users' IP addresses are anonymized within the product. This feature is designed to help site owners comply with their own privacy policies or, in some countries, recommendations from local data protection authorities, which may prevent the storage of full IP address information. The IP anonymization/masking takes place as soon as data is received by the Analytics Collection Network, before any storage or processing takes place.
>
> The process of IP anonymization in Analytics takes place within two steps in the collection pipeline: the JavaScript Tag and the Collection Network. These steps are explained below.


```
end-user                           masked here
12.214.31.144                      12.214.31.0
```

22.   In Universal Analytics, a prior generation product offered by Google Analytics, IP anonymization is a controllable setting by the customer. To request IP anonymization in the Universal Analytics product, the Google Analytics customer sets a corresponding parameter for their website to "true." [13] Prior to April 2022, IP address anonymization was enabled by default and immutable in the current generation GA4 product. Currently, Google

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[12] *See, e.g.*, GOOG-CABR-00005790 - 5791
(https://support.google.com/analytics/answer/2763052).
[13] *See, e.g.*, GOOG-CABR-00055916 - 5941
(https://developers.google.com/analytics/devguides/collection/analyticsjs/
field-reference#anonymizeIp).

1 Analytics discards all IP addresses in the GA4 product upon collection, after determining an

2 approximate geographic location.

3   23.   As yet another example, a Google Analytics customer can prevent the Google

4 Analytics Javascript code from setting cookies on the user's device.[14] To disable cookies, the Google

5 Analytics customer sets a "storage" field on their website to "none." If a customer disables cookies

6 in this manner, Google Analytics will not receive any value corresponding to the disabled cookies.

7   24.   Google Analytics customers have the option to activate certain features called

8 Analytics Advertising Features and Google Signals. Google Analytics Advertising Features are

9 described in Google's public disclosures:[15]

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About Advertising Features

Analytics Advertising Features is a collection of features that takes advantage of the Google advertising cookies so you can do things like:

- Create Remarketing Audiences based on specific behavior, demographic, and interest data, and share those lists with Google Ads
- Use demographic and interest data in your Analytics reports
- Create Segments based on demographic and interest data

If you're an Analytics 360 user, you have access to the additional features of being able to see Campaign Manager 360 data in your reports, and being able to create remarketing lists in Analytics and share them with Display & Video 360.

You enable Analytics Advertising Features so that Analytics can collect information about your users from the Google advertising cookies when they are present, along with the information Analytics normally collects.

For more information about the Google's advertising cookies, visit the Google Advertising Privacy FAQ.

If you implement Advertising Features, you must also adhere to the Analytics Advertising Features Policy.

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[14] *See, e.g.*, GOOG-CABR-00073994 - 3997 (https://developers.google.com/analytics/devguides/collection/analyticsjs/cookies-user-id#disabling_cookies).

[15] *See, e.g.*, GOOG-CABR-00002870 - 2871 (https://support.google.com/analytics/answer/3450482).

25.   When an Analytics customer enables Advertising Features for a given web property, Analytics collects the information it normally does, as well as Google advertising cookies if such cookies are present, as described in Google's public disclosures[16]:

> ## Enable Remarketing and Advertising Reporting Features for a web property
>
> When you enable Remarketing for a web property, you can create remarketing audiences from your Analytics data, and share those audiences with your linked advertising accounts (e.g., Google Ads and Display & Video 360) and with Optimize.
>
> When you enable Advertising Reporting Features for a web property, Analytics collects the information it normally does, as well as Google advertising cookies when those cookies are present.

26.   Google Analytics will only process data associated with advertising cookies in certain scenarios. In the case of a website visitor (user) who is either browsing in a signed-out state (like all members of the Class) or not a Google Account holder, Google Analytics will only process data associated with advertising cookies if the Analytics customer has enabled Analytics Advertising Features and the website visitor (user) has not opted out, as described in paragraph 8 above.

27.   Additionally, even if a Google Analytics customer has enabled Google Analytics Advertising Features, they can disable those features programmatically by setting a value (e.g., "allowAdFeatures") to false.[17] Doing so will prevent the Google Analytics Javascript code from sending advertising features signals to Google Analytics.

28.   Google Analytics customers may also choose to limit use of their data for advertising personalization purposes.[18] Customers may choose to disable advertising personalization for data collected from their entire property, or to disable it for individual events or users (for apps, websites,

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[16] *See, e.g.,* GOOG-CABR-00005544 - 5546 (https://support.google.com/analytics/answer/2444872).

[17] *See* https://developers.google.com/analytics/devguides/collection/analyticsjs/display-features#disable-advertising-features.

[18] *See* GOOG-CABR-00007709 - 7710 (https://support.google.com/analytics/answer/9626162); GOOG-CABR-00007815 - 7818 (https://support.google.com/analytics/answer/6004245#zippy=%2Cadvertising-personalization).

and measurement protocol). Advertising personalization features can also be disabled by Google Analytics customers programmatically by setting a value (e.g., "allowAdPersonalizationSignals") to false.[19]

2. User-Enabled Features That Affect Whether Google Receives Or Uses The Data

29. Users browsing in a PBM can affect Google Analytics' data collection through (a) device-level settings on their browser and (b) third party privacy features.

a) Device-level settings on a user's Chrome browser can affect data collection

30. Device-level features and settings in Chrome affect whether Google Analytics receives the data described in paragraph 7 when a user is in PBM, or how that data is used. As an initial matter, if a user uses a PBM (such as Chrome's Incognito Mode) without signing into their Google Account to visit a website that uses Google Analytics, the data that Google receives is not tied to the user's identity or information that could personally identify the user such as name, address, email address, or phone number. Google may associate certain of the data it receives through Google Analytics with a cookie value, but the user can delete that cookie from her browser anytime, and, in Incognito mode (and other PBMs), the browser deletes cookies automatically when the user closes the session.

31. For example, when a user activates Incognito mode, Chrome will create a new cookie jar that only stores cookies for the duration of that Incognito session, and those cookies are deleted when the Incognito session ends. Because Chrome creates a new cookie jar for the Incognito session, Google Analytics will not receive data associated with any cookies set in a prior session. And if the user visits the site again in a new Incognito or regular mode session, Google Analytics cannot tell that it is the same user from the previous Incognito session. It is my understanding that other browsers' PBMs handle cookies in a similar manner.

32. Other device-level features and settings that affect whether Google Analytics receives the data described in paragraph 7 when a user is in PBM, or how that data is used, include

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[19] *See* https://developers.google.com/analytics/devguides/collection/analyticsjs/display-features#disable-advertising-features.

1   cookie and JavaScript blocking options in browser settings, and the Google Analytics Opt-out

2   extension:

3   a. Enabling "block third-party cookies". For example, Chrome's settings, which are

4   accessible via a drop-down menu or by navigating to chrome://settings/cookies,

5   include an option to "block third-party cookies." I am informed that since

6   approximately May 2020, the "Block third-party cookies" toggle on the Incognito

7   Screen is on by default. If this feature is enabled, Google Analytics does not receive

8   data associated with any third-party cookies. Below is a screenshot of this Chrome

9   setting:
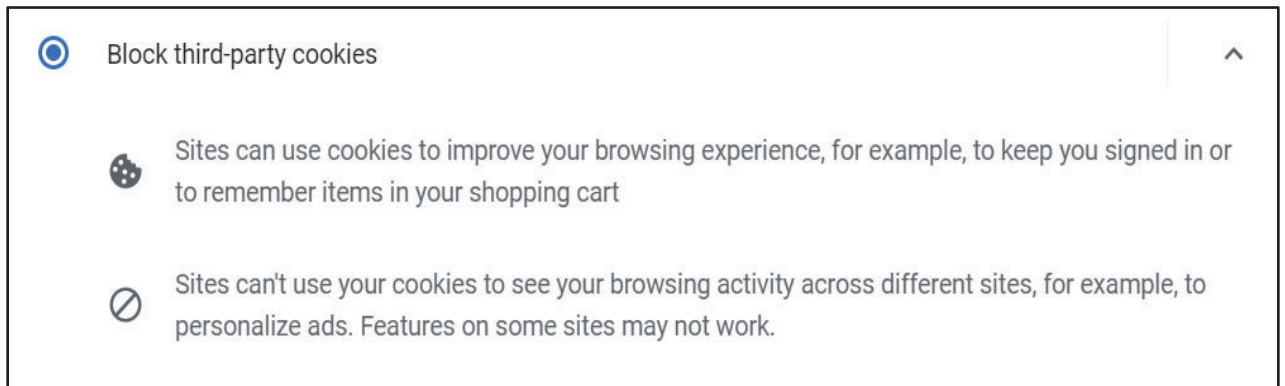
16   b. Enabling "block all cookies". For example, Chrome's settings include an option to

17   "block all cookies." When the user enables this feature, Chrome prevents websites

18   and Google Analytics from setting any cookies. If all cookies are blocked in this

19   manner, the Google Analytics tag will not be able to send those cookie values to

20   Google Analytics. Below is a screenshot of this Chrome setting:

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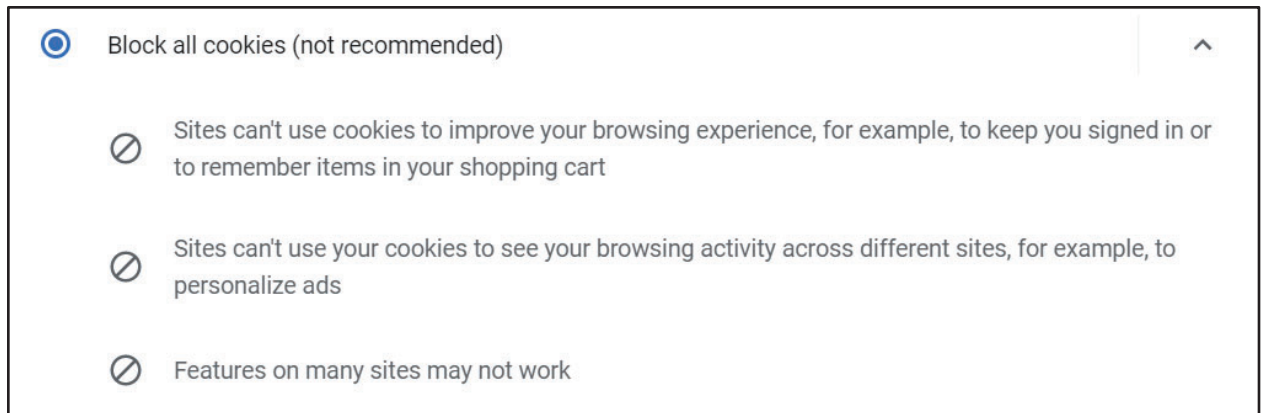
c. <u>Disabling JavaScript in Chrome settings</u>. Chrome's JavaScript settings, which are accessible via a drop-down menu or by navigating to chrome://settings/content/javascript, include the following option: "Don't allow sites to use Javascript." Below is a screenshot of this Chrome setting:
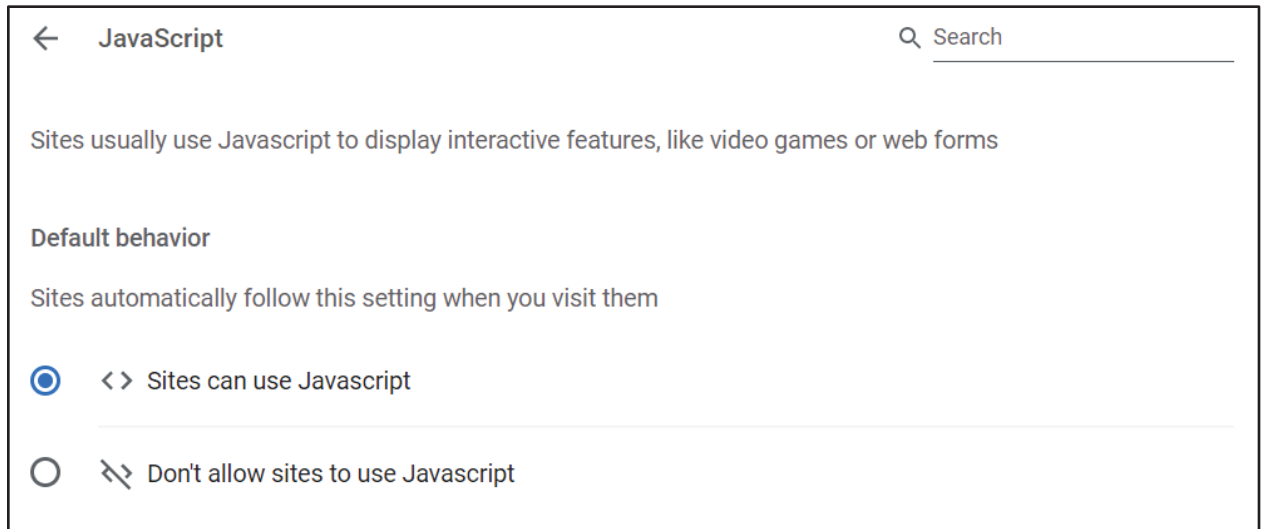

When a user selects "Don't allow sites to use JavaScript," Chrome prevents websites from using JavaScript, including Google Analytics tags based on JavaScript. As a result, if JavaScript is disabled in this manner, the Google Analytics tag will not be able to send information to Google Analytics when a Chrome user visits a website that uses Google Analytics.

d. <u>Installing the Google Analytics Opt-out Browser Extension</u>.[20] This add-on is a Chrome browser extension available for download at the Chrome Web Store, which indicates that it has "1,000,000+ users." When installed by a user, this browser extension will prevent the Google Analytics JavaScript executing in Chrome from sharing information with Google Analytics about the user's website visit. Certain browsers, including Chrome, disable extensions such as the Google Analytics Opt-Out extension by default in Private Browsing Mode. However, users can enable the Google Analytics Opt-Out extension such that it continues to operate in Private

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[20] *See* GOOG-CABR-00051336 (https://tools.google.com/dlpage/gaoptout); GOOG-CABR-00073998 - 4002 (https://chrome.google.com/webstore/detail/google-analytics-opt-out/fllaojicojecljbmefodhfapmkghcbnh?hl=en).

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Browsing Mode. Below is a screenshot of the description of the Google Analytics

Opt-out Browser Add-on from the Analytics Help Center[21]:
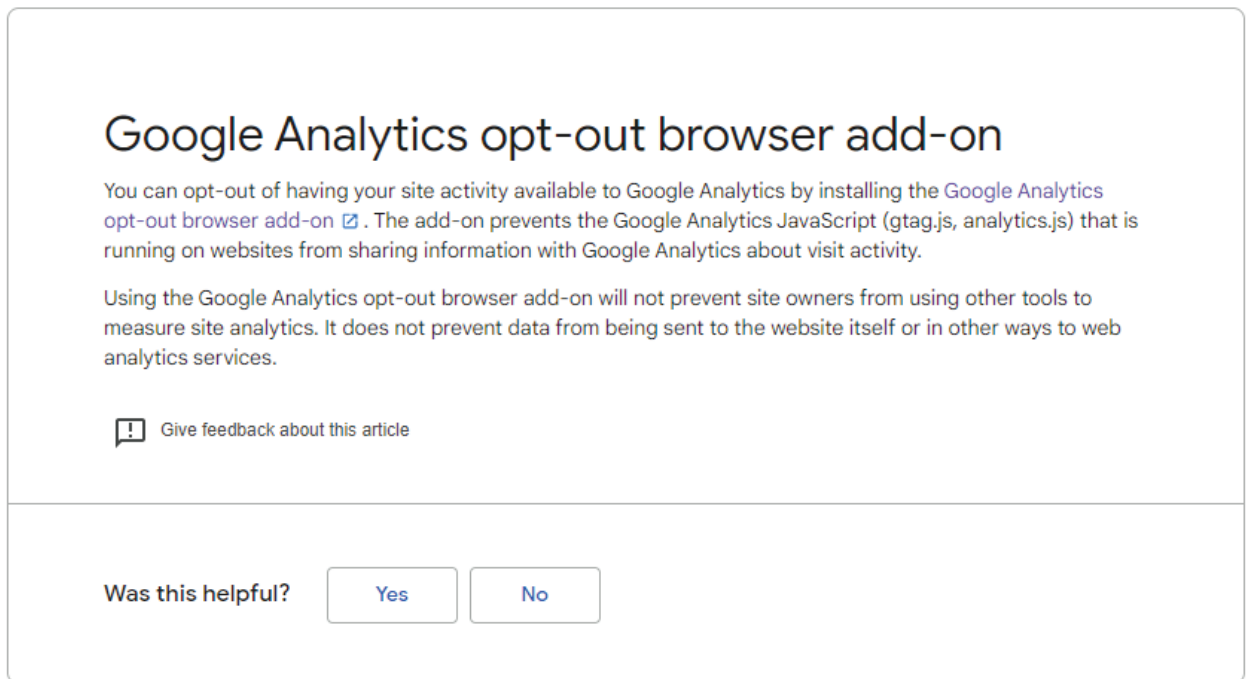
b)   **Use of third-party software by the Chrome user can also affect data collection**

33.   There are also a number of third-party privacy programs and tools users can employ

that affect whether Google Analytics receives the data at issue in this case when users are in PBM,

including proxy servers, VPNs, and firewalls.

a.   Using a proxy server or VPN. If a Chrome user or her network administrator employs

a proxy server or VPN (Virtual Private Network) that masks the sending device's IP

address, then Google Analytics would not receive the user's real IP address. Instead,

Google Analytics would receive only the IP address associated with the VPN or

proxy server.

b.   Using a firewall. If a Chrome user or her network administrator employs a firewall

that is configured to allow traffic only to specific domains (not including domains

associated with Google Analytics), or to prevent traffic to specific domains

(including domains associated with Google Analytics), then any transmissions that

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[21] GOOG-CABR-00011290 (https://support.google.com/analytics/answer/181881).

1   the Chrome browser attempts to send to Google Analytics will be blocked by the

2   firewall.

3   **C.   Factors That Affect Google's Revenue From Google Analytics**

4   34.   There are two versions of Google Analytics: (1) Google Analytics 360, which is the

5   paid version of Google Analytics; and (2) Google Analytics, which is the free version of this

6   product. The revenue Google receives for Google Analytics services will vary depending on

7   whether the Google Analytics customers are using a cost-free or paid version of Google Analytics.

8   35.   Revenue from Google Analytics 360 is based on the contract with each customer;

9   the revenue per contract depends on the volume of hits Google Analytics processes for the customer,

10   which is distinct from the number of visitors (users) that have visited the customer's website. The

11   free version of Google Analytics is available freely to any internet website, up to a certain volume

12   of hits sent to Google Analytics. The customer must use the Google Analytics 360 product if it

13   wants any traffic over that volume threshold to be included in the analytics tools provided by Google

14   Analytics. The overwhelming number of websites on the internet use the free Google Analytics

15   version.

16   36.   Google Analytics does not calculate revenue or profits on a per-individual-website

17   visitor (user) basis. Nor does Google Analytics calculate profits on the basis of the data Plaintiffs

18   allege Google improperly collected, described in paragraph 4 above. Further, it would be impossible

19   to calculate Google Analytics' revenue or profits on a per-individual-website visitor (user) basis or

20   to calculate Google Analytics' revenue or profits tied only to traffic from Incognito users or PBM

21   users in Safari, Edge, or Internet Explorer who are not signed-in to their Google Account. However,

22   if one were to attempt to do so, I expect that the revenue and profit over a fixed period of time would

23   vary widely from one individual to the next on the basis of which Google Analytics customer

24   websites are visited, and the frequency and volume of these individuals' browsing while they are in

25   PBM.

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DECLARATION OF STEVE GANEM

1   I declare under penalty of perjury under the laws of the United States of America that the

2   foregoing is true and correct to the best of my knowledge. Executed in Huntington Beach,

3   California on August 4, 2022.

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5   _____
     Steve Ganem

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